IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Shivji v. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.3687/2002
under Articles 226 and 227 of the Constitution of India.

Date of Order : 7th November, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Manish Shishodia, for the petitioner.
Mr. SDN Bhatt]
Mr. Kailash Joshi] for the respondents.

BY THE COURT :

While exercising powers under the Rajasthan Land Revenue (Allotment, Conversion & Regularisation of Agricultural Land for Residential & Commercial Purposes in Urban Areas) Rules, 1981 (hereinafter referred to as “the Rules of 1981”), the Additional Collector (Land Conversion), Jodhpur by an order dated 4.6.1991 regularised possession of the petitioner on a piece of land in khasra No.734 village Jodhpur by treating him an occupant of the land in question prior

to 20.8.1981. The Additional Collector (Land Conversion), Jodhpur accordingly made an order to issue a lease in favour of the petitioner. A deed of lease was accordingly issued on 10.7.1991.

One Shri Gumniram being aggrieved by the order dated 4.6.1991 passed by the Additional Collector (Land Conversion), Jodhpur preferred an appeal before the Revenue Appellate Authority, Jodhpur which came to be accepted by judgment dated 27.5.1993. The Revenue Appellate Authority, Jodhpur by judgment dated 27.5.1993 remanded the matter to Sub Divisional Officer (Land Conversion), Jodhpur to decide the same afresh by giving an opportunity of hearing to Shri Gumniram and by making requisite inquiry as to whether the land in dispute was open for its conversion. In pursuant to the judgment dated 27.5.1993 passed by the Revenue Appellate Authority, Jodhpur the Sub Divisional Officer (Land Conversion), Jodhpur heard the matter afresh and decided the same by order dated 12.4.1996 holding therein that the petitioner was in possession of the Government land prior to 20.8.1981 and as such declared him entitled to get the land in question converted and to get possession over it regularised.

By way of filing an appeal a challenge was again given by Shri Gumniram to the order dated 12.4.1996 passed by the Sub Divisional Officer (Land

Conversion), Jodhpur. It is also pertinent to mention here that the Urban Improvement Trust, Jodhpur also became party to the proceedings before the Revenue Appellate Authority, Jodhpur. The Revenue Appellate Authority, Jodhpur by its judgment dated 11.8.1987 accepted the appeal preferred by Shri Gumniram holding therein that the land situated in khasra No.734 village Jodhpur was already allotted to Urban Improvement Trust, Jodhpur by the Government of Rajasthan for developing a residential colony, therefore, the land was not open for further allotment to the petitioner. The Revenue Appellate Authority also held that the land allotted to the petitioner is part of the road under a proposed housing scheme of Urban Improvement Trust, Jodhpur. Beside the above the Revenue Appellate Authority also held that no inquiry as required to be made under the Rules of 1981 was made by the Sub Divisional Officer (Land Conversion), Jodhpur before making an order for conversion of the land. The Revenue Appellate Authority also reached at the conclusion that the Sub Divisional Officer (Land Conversion) determined possession of the petitioner on the land in question on basis of statements of Shri Bhanwarlal and Shri Mangilal which were not recorded by any competent authority. The Revenue Appellate Authority, Jodhpur after hearing the parties to the proceedings set aside the orders dated 12.4.1996, 4.6.1991 and the lease deed dated 10.7.1991.

The petitioner being aggrieved by the judgment dated 11.8.1997 passed by the Revenue Appellate Authority preferred an appeal under Section 76 of the Land Revenue Act, 1956 before the Board of Revenue for Rajasthan, Ajmer. The Board of Revenue by its judgment dated 29.5.2000 dismissed the appeal and affirmed the judgment dated 11.8.1997 passed by the Revenue Appellate Authority, Jodhpur. The Board of Revenue while affirming the findings given by the Revenue Appellate Authority held that the land in dispute was transferred to Urban Improvement Trust, Jodhpur much back in the year 1971, the land in dispute is also a part of the road under a residential scheme of Urban Improvement Trust, Jodhpur and also that there was no evidence available on record to prove possession of the petitioner on the land in dispute prior to 20.8.1981.

The petitioner being aggrieved by the judgment dated 29.5.2000 preferred a review petition before the Board of Revenue and the same too stood rejected by the judgment dated 22.10.2001. Being aggrieved by the same present petition for writ is preferred by the petitioner.

A detailed reply to the writ petition has been filed on behalf of Urban Improvement Trust, Jodhpur and also by respondent Gumniram.

Heard counsel for the parties.

The only contention raised by counsel for the petitioner is that the land in dispute is not at all part of the road and the finding given in this regard by the Revenue Appellate Authority as well as by the Board of Revenue is erroneous.

I do not find any force in the contention so raised. The Revenue Appellate Authority after perusing the approved plan by Senior Town Planner reached at a specific conclusion that the land in question is part of the road having the width of 160 ft. I do not find any reason to interfere with the finding given by the Revenue Appellate Authority. Suffice it to mention here that the Revenue Appellate Authority beside the fact that the land in question is part of a road under a proposed housing scheme of the Urban Improvement Trust, Jodhpur also held that the land in dispute was not open for allotment or regularisation of possession as the same was already allotted to Urban Improvement Trust, Jodhpur for development of residential colony, as such in any case the land in dispute was not at all available for allotment or regularisation of possession in favour of the petitioner. The other findings given by the Revenue Appellate Authority as affirmed by the Board of Revenue are purely findings of fact which does not require any interference by this Court exercising

powers under Articles 226 and 227 of the Constitution of India.

The writ petition, therefore, is having no merit and the same is hereby dismissed.

(GOVIND MATHUR),J.

kkm/ps.